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Message Text

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60
ACTION DLOS-07

INFO OCT-01 ARA-16 EUR-25 EA-11 NEA-14 ISO-00 CG-00

CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03 NSAE-00 NSC-07

PA-04 RSC-01 PRS-01 SP-03 SS-20 USIA-15 FEA-02 AID-20

CEQ-02 COA-02 COME-00 EB-11 EPA-04 IO-14 NSF-04

SCI-06 ACDA-19 AEC-11 AGR-20 DOTE-00 FMC-04 INT-08

JUSE-00 OMB-01 DRC-01 /278 W
---------- 023516
R 221602Z AUG 74
FM AMEMBASSY CARACAS
TO SECSTATE WASHDC 5470
INFO USUN NEW YORK 777
AMEMBASSY BUENOS AIRES
AMEMBASSY SANTIAGO
AMEMBASSY OTTAWA
AMEMBASSY LOSLO
AMEMBASSY MEXICO
AMEMBASSY WELLINGTON
AMEMBASSY CANBERRA
AMEMBASSY BOGOTA
AMEMBASSY NEW DELHI

C O N F I D E N T I A L CARACAS 8131

FROM USDEL LOS

EO 11652: GDS
TAGS: PLOS
SUBJ: LOS: MEETING WITH COASTAL STATE GROUP

REF: CARACAS 7924

1. AMBASSADOR STEVENSON MET WITH COASTAL STATE GROUP FOR SECOND TIME ON AUGUST 19. MAIN SUBJECT OF DISCUSSION WAS "RESIDUAL
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RIGHTS" IN THE ECONOMIC ZONE, THAT IS THE RIGHT TO CONDUCT

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ACTIVITIES NOT SPECIFICIALLY PLACED UNDER COASTAL STATE JURIS-
DICTION, AND ACCOMMODATION OF USESZ. THE RELEVANT ARTICLES ARE
SET FORTH IN PARAS 2 AND 3 BELOW.

2. THE FOLLOWING IS THE TEXT OF U.S. ARTICLES 7 AND 8:
ARTICLE 7 - NAVIGATION, OVERFLIGHT, AND OTHER RIGHTS
NOTHING IN THIS CHAPTER SHALL AFFECT THE RIGHTS OF FREEDOM OF
NAVIGATION AND OVERFLIGHT, AND OTHER RIGHTS RECOGNIZED BY THE
GENERAL PRINCIPLES OF INTERNATIONAL LAW, EXCEPT AS OTHERWISE
SPECIFICALLY PROVIDED IN THIS CONVENTION. THE PROVISIONS OF
THIS ARTICLE DO NOT APPLY TO ACTIVITIES FOR WHICH THE AUTHORI-
ZATION OF THE COASTAL STATE IS REQUIRED PURSUANT TO THIS
CONVENTION.
ARTICLE 8 - UNJUSTIFIABLE INTERFERENCE

1. THE COASTAL STATE SHALL EXERCISE ITS RIGHTS AND PERFORM
ITS DUTIES IN THE ECONOMIC ZONE WITHOUT UNJUSTIFIABLE INTER-
FERENCE WITH NAVIGATION OR OTHER USES OF THE SEA, AND ENSURE
COMPLIANCE WITH APPLICABLE INTERNATIONAL STANDARDS ESTABLISHED
BY THE APPROPRIATE INTERNATIONAL ORGANIZATIONS FOR THIS
PURPOSE.

2. IN EXERCISING THEIR RIGHTS, STATES SHALL NOT UNJUSTIFIABLY
INTERFERE WITH THE EXERCISE OF THE RIGHTS OR THE PERFORMANCE OF
THE DUTIES OF THE COASTAL STATE IN THE ECONOMIC ZONE.

3. THE FOLLOWING IS THE TEXT OF ARTICLES 14, 15 AND 17 OF
DOCJMENT L.4, SPONSORED BY 9 MEMBERS OF THE COASTAL STATE
GROUP:
ARTICLE 14

IN THE ECONOMIC ZONE, SHIPS AND AIRCRAFT OF ALL STATES,
WHETHER COASTAL OR NOT, SHALL ENJOY FREEDOM OV NAVIGATION AND
OVERFLIGHT SUBJECT TO THE EXERCISE BY THE COASTAL STATE OF ITS
RIGHTS WITHIN THE AREA, AS PROVIDED FOR IN THIS CONVENTION.

ARTICLE 15
THE COASTAL STATE SHALL EXERCISE ITS RIGHTS AND PERFORM ITS
DUTIES IN THE ECONOMIC ZONE WITHOUT UNDUE INTERFERENCE WITH
OTHER LEGITIMATE USES OF THE SEA, INCLUDING, SUBJECT TO
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THE PROVISIONS OF THIS CONVENTION, THE LAYING OF CABLES AND
PIPELINES.

ARTICLE 17
IN EXERCISING THEIR RIGHTS UNDER THIS CONVENTION, STATES
SHALL NOT INTERFERE WITH THE EXERCISE OF THE RIGHTS OR THE PER-
FORMANCE OF THE DUTIES OF THE COASTAL STAT IN THE ECONOMIC
ZONE.

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4. NORWAY FELT THAT DOC L.4, ARTICLE 15, WAS INTENDED TO MEAN THE SAME THINK AS U.S. ARTICLE 7. WE POINTED OUT THAT THAT ESSENTIALLY WOULD BE THE CASE, AND THE ISSUE WOULD ESSENTIALLY BE ONE OF DRAFTING, IF THE REFERENCE TO THE RIGHT TO CONDUCT OTHER USES WAS PRESENT IN ARTICLE 14. JAGOTA (INDIA) AGREED WITH OUR POINT, BUT WOULD NOT COMMIT HIMSELF ON SUBSTANCE ONE WAY OR THE OTHER. ZEGERS (CHILE) AND BEESLEY (CANADA) SAID THERE WERE THREE POSITIONS ON RESIDUAL RIGHTS: FIRST, THE EL SALVADOR POSITION THAT ALL RIGHTS NOT SPECIFICALLY ENJOYED BY THE INTERNATIONAL COMMUNITY WERE HELD BY THE COASTAL STATE, POSSIBLY QUALIFIED BY LIMITATION TO ECONOMIC RIGHTS; SECOND, THE U.S. POSITION THAT ALL RESIDUAL RIGHTS WERE IN THE INTERNATIONAL COMMUNITY AND THIRD STATES; AND THIRD, THE MIDDLE POSITION" OF DOC L.4. STEVENSON RE-EMPHASIZED THAT THIS WOULD BE A MAJOR POINT OF DIFFICULTY, AND NOTED THAT THE U.S. FORMULA AMOUNTED TO NO MORE THAN THE PRESERVATION OF RIGHTS RECOGNIZED BY THE GENERAL PRINCIPLES OF INTERNATIONAL LAW, WHICH IS ESSENTIALLY THE SAME FORMULA USED IN THE HIGH SEAS CONVENTION.

5. STEVENSON NOTED THAT WHILE THE ACCOMMODATION OF USE PROVISIONS IN U.S. ARTICLE 8 WERE BALANCED AS BETWEEN THE COASTAL STATE AND THIRD STATES, WITH BOTH SUBJECT TO A STANDARD OF "INJUSTIFIABLE INTERFERENCE?" DOC L.4 TILTED IN THE DIRECTION OF THE COASTAL STATE. THE PROBLEM LAY WITH THE "SUBJECT TO" CLAUSE IN ARTICLE 14, AND WITH THE PROHIBITION OF "UNDUE INTER-FERENCE" ON THE COASTAL STATE, WHILE THIRD STATES UNDER ARTICLE 17 WERE SUBJECT TO THE ABSOLUTE LANGUAGE "SHALL NOT INTERFERE."
THE SENSE OF THE GROUP SEEMED TO BE THAT SOME RE-DRAFTING COULD BE DONE ON THIS MATTER.

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6. BEESLEY SUMMARIZED THE MEETING BY SAYING WE WERE NOT THAT FAR APART, AND THAT WORKING ON SOME SPECIFICS MIGHT HELP RESOLVE MORE GENERAL CLAUSES. THE NEXT MEETING IS SCHEDULED FOR AUGUST 23.
STEVENSON

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